

§514.5

21 CFR Ch. I (4–1–14 Edition)

animal drugs, the sponsor shall demonstrate by substantial evidence, as defined in this section, that the combination new animal drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the proposed labeling and that each active ingredient or animal drug contributes to the effectiveness of the combination new animal drug.

[64 FR 40756, July 28, 1999]

§514.5 Presubmission conferences.

(a) *General principle underlying the conduct of a presubmission conference.* The general principle underlying the conduct of any presubmission conference is that there should be candid, full, and open communication.

(b) *Requesting a presubmission conference.* A potential applicant is entitled to one or more conferences prior to the submission of an NADA, supplemental NADA, or an ANADA to reach an agreement establishing part or all of a submission or investigational requirement. A potential applicant's request for a presubmission conference must be submitted to FDA in a signed letter. The letter must include a proposed agenda that clearly outlines the scope, purpose, and objectives of the presubmission conference and must list the names and positions of the representatives who are expected to attend the presubmission conference on behalf of the applicant.

(c) *Timing.* A potential applicant may request one or more presubmission conferences at any time prior to the filing of a NADA, supplemental NADA, or an ANADA. A request for a presubmission conference must be received by FDA at least 30 calendar days in advance of the requested conference date. FDA will schedule the presubmission conference at a time agreeable to both FDA and the potential applicant.

(d) *Advance information.* The potential applicant must provide to FDA, at least 30 calendar days before a scheduled presubmission conference, a detailed agenda, a copy of any materials to be presented at the conference, a list of proposed indications and, if available, a copy of the proposed labeling for the product under consideration, and copies of materials evaluated or

referenced relative to issues listed in the agenda for the conference. If the materials are not provided or are not sufficient to provide the basis for meaningful discussion, FDA may elect to postpone part or all of the meeting until sufficient materials are provided to FDA.

(e) *Conduct of a presubmission conference.* The potential applicant and FDA may each bring consultants to the presubmission conference. The presubmission conference(s) will be directed primarily at establishing agreement between FDA and the potential applicant regarding a submission or investigational requirement. The submission or investigational requirement may include, among other things, the number, types, and general design of studies that are necessary to demonstrate the safety and effectiveness of a new animal drug for the intended uses and conditions of use prescribed, recommended, or suggested in the proposed labeling for the new animal drug.

(f) *Documentation of a presubmission conference*(1) *Memorandum of conference*—(i) *Preparation.* FDA will prepare a memorandum for each presubmission conference that will include, among other things, any background pertinent to the request for meeting; a summary of the key points of discussion; agreements; and action items and assignments of responsibility. That portion of the memorandum of conference that documents any agreements reached regarding all or part of a submission or investigational requirement will be included under the heading "Presubmission Conference Agreement." If the presubmission conference agreement section of the memorandum is silent on an issue, including one that was discussed in the conference or addressed by materials provided for the conference, such silence does not constitute agreement between FDA and the potential applicant on the issue.

(ii) *Sending a copy to the potential applicant.* FDA will send a copy of the memorandum to the potential applicant for review no later than 45 calendar days after the date of the conference.

(iii) *Requests for changes or clarification.* If a potential applicant requests

changes to, or clarification of, the substance of the memorandum, the request must be sent to FDA within 30 calendar days from the date a copy of the memorandum is sent to the applicant. If the potential applicant requests changes or clarification, FDA will send the potential applicant a response to their request no later than 45 calendar days after the date of receipt of the request.

(iv) *Administrative record.* A copy of FDA's original memorandum of conference and, as appropriate, a copy of an amended memorandum to correct or clarify the content of the original memorandum will be made part of the administrative file.

(2) *Field studies.* If FDA requires more than one field study to establish by substantial evidence that the new animal drug is effective for its intended uses under the conditions of use prescribed, recommended, or suggested in the proposed labeling, FDA will provide written scientific justification for requiring more than one field study. Such justification must be provided no later than 25 calendar days after the date of the conference at which the requirement for more than one field study is established. If FDA does not believe more than one field study is required but the potential applicant voluntarily proposes to conduct more than one field study, FDA will not provide such written justification. If FDA requires one field study to be conducted at multiple locations, FDA will provide justification for requiring multiple locations verbally during the pre-submission conference and in writing as part of the memorandum of conference.

(g) *Modification of presubmission conference agreements.* An agreement made under a presubmission conference requested under section 512(b)(3) of the act and documented in a memorandum of conference is binding on the potential applicant and FDA and may only be modified if:

(1) FDA and the potential applicant mutually agree to modify, in part or in whole, the agreement and such modification is documented and provided to the potential applicant as described in paragraph (f)(1) of this section; or

(2) FDA by written order determines that a substantiated scientific requirement essential to the determination of safety or effectiveness of the new animal drug appeared after the conference.

(h) *When the terms of a presubmission conference agreement are not valid.*(1) A presubmission conference agreement will no longer be valid if:

(i) The potential applicant makes to FDA, before, during, or after the pre-submission conference, any untrue statement of material fact; or

(ii) The potential applicant fails to follow any material term of the agreement; and

(2) A presubmission conference may no longer be valid if the potential applicant submits false or misleading data relating to a new animal drug to FDA.

(i) *Dispute resolution.* FDA is committed to resolving differences between a potential applicant and FDA reviewing divisions with respect to requirements for the investigation of new animal drugs and for NADAs, supplemental NADAs, and ANADAs as quickly and amicably as possible through a cooperative exchange of information and views. When administrative or procedural disputes arise, a potential applicant should first attempt to resolve the matter within the appropriate review division beginning with the individual(s) most directly assigned to the review of the application or investigational exemption. If the dispute cannot be resolved after such attempts, the dispute shall be evaluated and administered in accordance with applicable regulations (21 CFR 10.75). Dispute resolution procedures may be further explained by guidance available from the Center for Veterinary Medicine.

[69 FR 51170, Aug. 18, 2004]

§514.6 Amended applications.

The applicant may submit an amendment to an application that is pending, including changes that may alter the conditions of use, the labeling, safety, effectiveness, identity, strength, quality, or purity of the drug or the adequacy of the manufacturing methods, facilities, and controls to preserve